

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

HANS MOKE NIEMANN,

Plaintiff,

v.

SVEN MAGNUS ØEN CARLSEN A/K/A
MAGNUS CARLSEN, PLAY MAGNUS AS
D/B/A PLAY MAGNUS GROUP, CHESS.COM,
LLC, DANIEL RENSCH A/K/A “RENSCH”
RENSCH, AND HIKARU NAKAMURA,

Defendants.

Case No. 4:22-cv-01110-AGF

Hon. Audrey G. Fleissig

**DEFENDANT CHESS.COM, LLC’S MOTION TO DISMISS PLAINTIFF’S
SECOND AMENDED COMPLAINT AND/OR TO COMPEL ARBITRATION**

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Counsel for Defendant Chess.com, LLC

COMES NOW Defendant Chess.com, LLC (“Chess.com”), by and through its undersigned attorneys, and moves this Court pursuant to Federal Rule of Civil Procedure 12(b)(6) and Connecticut’s anti-Strategic Lawsuits Against Public Participation (“anti-SLAPP”) statute, Conn. Gen. Stat. § 52-196a, to dismiss the Second Amended Complaint (“SAC”) (ECF No. 75) of Plaintiff Hans Niemann for failure to state a claim upon which relief may be granted and/or to compel arbitration of Niemann’s breach of contract claim. As more fully set forth in the accompanying Memorandum of Law in Support:

1. Niemann’s federal antitrust claims under Sections 1 and 2 of the Sherman Act (Count III and IV) suffer from multiple incurable defects and should be dismissed. Both claims fail because Niemann does not have standing to bring an antitrust claim, as the SAC fails to allege injury to competition, instead only alleging that Niemann suffered individual harm.

2. Niemann’s Section 1 claim (Count III) independently fails on multiple grounds. First, the SAC fails to plausibly allege an agreement among Defendants, but instead simply alleges, at most, parallel conduct. Second, the SAC fails to allege how any such agreement would constitute an unreasonable restraint on trade. Chess.com’s actions as alleged in the SAC were not inherently anticompetitive, and the SAC’s cursory description of the alleged relevant market is insufficient.

3. Niemann’s new Section 2 claim (Count IV) similarly fails on multiple grounds. First, the SAC fails to allege that Chess.com acted with specific intent to control prices or destroy competition among other market participants as a means of achieving monopoly power. Second, the SAC fails to adequately allege how Chess.com’s challenged actions were predatory or anticompetitive. And finally, the SAC fails to adequately allege that Chess.com had a dangerous probability of success in achieving monopoly power.

4. Niemann's state law claims alleging slander (Count I), libel (Count II), tortious interference (Count V), and civil conspiracy (Count VI) also fail as a matter of law and on the merits, and consequently should be dismissed. First, all of these state law claims are barred, as a matter of law, by Connecticut's anti-SLAPP statute, as set forth in Defendant Magnus Carlsen's concurrently filed motion to dismiss and accompanying memorandum of law in support, which arguments Chess.com joins in and incorporates by reference herein. Second, with respect to the slander and libel claims, the SAC fails to allege how any of Chess.com's statements were actionable false statements under applicable state defamation law; and even so, the SAC does not adequately allege that Chess.com acted with actual malice, which is required because Niemann is a public figure. And as for the tortious interference and civil conspiracy claims, both are derivative of the other claims in the SAC and fail for the same reasons the other claims fail. Independently, the tortious interference claim should be dismissed because the SAC fails to allege that Chess.com had the requisite knowledge of the relationships with which it allegedly interfered, fails to demonstrate any "improper means," and fails to explain how Chess.com's actions were the cause of any breakdown in any such relationships.

5. Niemann's new state law claim alleging breach of contract (Count VII) also fails as a matter of law and on the merits because Niemann fails to adequately allege a breach or damages. In addition, Niemann's decision to bring this claim in federal court violates the alternative dispute resolution (*i.e.*, arbitration) provision of the very agreement forming the basis of his claim.

Wherefore, Chess.com respectfully requests that this Court grant this motion and dismiss the claims against it (Counts I through VII) and/or compel arbitration of the breach of contract claim (Count VII) and grant any further and necessary relief. The motion is based upon this

motion, the accompanying Memorandum of Law in Support of the motion, Magnus Carlsen's motion to dismiss and accompanying memoranda of law in which Chess.com joins and incorporates by reference herein, and all pleadings in this action, as well as other writing and oral argument the Court may entertain.

DATED: January 24, 2023

Respectfully submitted,

/s/ Nima H. Mohebbi

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Counsel for Defendant Chess.com, LLC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on January 24, 2023, the foregoing document was served on all counsel of record by ECF.

DATED: January 24, 2023

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